

**BEFORE THE STATE OF SOUTH DAKOTA  
PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE PETITION OF  
MIDCONTINENT COMMUNICATIONS FOR  
APPROVAL OF ITS INTRASTATE SWITCHED  
ACCESS TARIFF AND FOR AN EXEMPTION  
FROM DEVELOPING COMPANY-SPECIFIC  
COST-BASED SWITCHED ACCESS RATES**

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) Docket No. TC07-117  
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**DIRECT TESTIMONY OF**

**W. TOM SIMMONS**

On Behalf Of

**MIDCONTINENT COMMUNICATIONS**

July 15, 2008

1 **Q. PLEASE STATE YOUR NAME FOR THE RECORD:**

2 **A.** W. Thomas Simmons

3 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

4 **A.** I am employed by Midcontinent Communications as the Senior Vice President of  
5 Public Policy.

6 **Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES?**

7 **A.** I am the corporate officer responsible for regulatory, government and community  
8 affairs, public and media relations, and represent our telephone, cable and Internet  
9 product teams on policy issues.

10 **Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL  
11 BACKGROUND?**

12 **A.** I hold a Bachelor and Masters degrees in Psychology and have been a  
13 Midcontinent Vice President since 1989. My first Midcontinent assignment was  
14 with the broadcast division as a general manager of four South Dakota radio  
15 stations. In 1995, I joined the telecommunications division, Midco  
16 Communications, as their general manager. From 1995 to 2001, I led the team  
17 that developed our local exchange operation, guided the process for our certificate  
18 of authority granted by the Commission and negotiated the initial interconnections  
19 agreements with other carriers.

20 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

21 **A.** Yes. I have participated in numerous issues and meetings, formally filing  
22 testimony "In the Matter of the Establishment of Switched Access rates for U S

1 WEST Communications, Inc”, Docket TC 96-107, “In the Matter of the Analysis  
2 of Qwest Corporation’s Compliance With Section 271c of the  
3 Telecommunications Act of 1996”, Docket TC 01-165, “In the Matter of the  
4 Application of Qwest Corporation to Reclassify Local Exchange Services as Fully  
5 Competitive”, Docket TC 03-057 and in Midcontinent Communications’ “Motion  
6 to Compel Local Number Porting or Good Faith Negotiation”, Docket TC03-192.

7 **Q. WHAT ISSUES DOES THIS TESTIMONY ADDRESS?**

8 **A.** The purpose of my testimony is to provide information to the Commission from  
9 Midcontinent’s position that may assist the Commission in deciding whether to  
10 grant this petition for switched access rates. Warren Fischer of QSI Consulting,  
11 Inc. (“QSI”) addresses the cost study development process undertaken by  
12 Midcontinent in detail.

13 **Q. WHAT ARE MIDCONTINENT’S CONCERNS?**

14 **A.** In our initial filing as a local exchange provider, Midcontinent filed for an  
15 exemption and has filed for subsequent continuation of the exemption from  
16 developing company specific cost based switched access rates. Since 2002,  
17 Midcontinent has mirrored the Qwest intrastate switched access rates. When we  
18 became aware of variations in accepted switched access rates filed by other South  
19 Dakota CLECs, it became apparent that we may need to modify our approach and  
20 request equal treatment by the Commission for acceptance of our switched access  
21 tariff. Through discussions with Commission Staff we learned that there would  
22 be resistance on the part of the Staff to recommend approval of allowing our rates  
23 to match those of other CLECs. The only reason we could discern was that

1 developing consistent and fair rates for all CLECs would involve an increase for  
2 Midcontinent at a time Staff said they were working to reduce the rates of other  
3 CLECs. Apparently, the Staff was asking Midcontinent to hold on until rates of  
4 others were renegotiated or there was a conclusion of a rule making proceeding  
5 (RM 05-002). If that was not acceptable to Midcontinent, the only alternative  
6 available was to develop company-specific switched access rates.

7 **Q. DID MIDCONTINENT DEVELOP COMPANY-SPECIFIC SWITCHED**  
8 **ACCESS RATES?**

9 **A.** Yes, although as Mr. Fischer notes in his testimony, the resulting rate is only a  
10 conservative estimate and is not a definitive determination of Midcontinent's cost  
11 of providing intrastate switched access service in South Dakota. While the FCC  
12 does not require CLECs to file cost studies, at great expense to Midcontinent, we  
13 hired QSI to assist us in developing company-specific switched access rates. QSI  
14 undertook the project understanding that Midcontinent does not use the Uniform  
15 System of Accounts. Midcontinent uses GAAP<sup>1</sup> accounting. QSI mapped  
16 Midcontinent accounts to the Uniform System of Accounts construct preferred by  
17 the Commission and developed company-specific switched access rates. These  
18 rates were presented to Commission Staff at a meeting in April 2007. At that  
19 meeting Midcontinent heard Staff's concerns, and we reviewed our entire cost  
20 study development process to make the necessary changes to the LECA model-  
21 based cost study used by Midcontinent as suggested by Staff. This modified  
22 version was provided to Commission Staff in January of 2008. Midcontinent

1 along with its consultants from QSI met with Commission Staff in a face-to-face  
2 meeting in April 2008.

3 **Q. WHAT IS THE CURRENT STATUS?**

4 **A.** Since the meeting in April 2008, we understand there have been numerous  
5 discussions between Staff and Midcontinent's counsel on where to go from here.  
6 For a time, Midcontinent was placed on hold pending negotiations with other  
7 CLECs. There was a concern that if Midcontinent pressed the issue, it would  
8 somehow interfere with negotiated rates with other CLECs. In the meantime,  
9 Midcontinent continues to operate with switched access rates far below those of  
10 other CLECs operating in Midcontinent communities. Midcontinent has worked  
11 on reaching a settlement of its switched access rate issue, but to date our  
12 combined efforts have failed.

13 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

14 **A.** Given the extraordinary expense sacrificed by Midcontinent, the only CLEC that  
15 has been willing to take on this task, and the number of months devoted to this  
16 issue with no solution, we must ask that it be resolved by the Commission. While  
17 other CLECs took advantage of the statewide average LECA Plus rate within the  
18 rules and were granted approval, Midcontinent has been denied. We believe we  
19 have taken measures far beyond that of any other CLEC to demonstrate  
20 justification for approval of our switched access rate tariff. We also have  
21 demonstrated extraordinary patience in working with Commission Staff to resolve  
22 the issue, but have come to no conclusion. We ask now that the Commission

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<sup>1</sup> This acronym abbreviates Generally Accepted Accounting Principles.

1           acknowledge our efforts in proving our costs and adopt our cost study on the  
2           grounds of fairness so we may compete with the rural LEC-owned CLECs that  
3           have enjoyed substantially higher rates for quite some time.

4   **Q.    DOES THIS CONCLUDE YOUR TESTIMONY?**

5   **A.**It does.